

**Bourne's Transportation, Inc. and Anthony R. Dir-
enzo.** Case 1-CA-16244

January 28, 1982

SUPPLEMENTAL DECISION AND ORDER

**BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN**

On June 1, 1981, the National Labor Relations Board issued its Decision and Order¹ in the above-entitled proceeding in which it directed, *inter alia*, that Respondent Bourne's Transportation, Inc., its officers, agents, successors, and assigns, make whole employee Anthony R. Drenzo for loss of earnings suffered by reason of Respondent's discrimination against him. Thereafter, Respondent and the General Counsel entered into a stipulation which provided in substance that Respondent had no objection to the Board's June 1 Order, conceding that it was valid and proper in all respects, and that the only issue in dispute was the amount of backpay due Drenzo under the terms of the Board's Order. A controversy having arisen over the amount of backpay due under the terms of the Order, the Regional Director for Region 1, on September 21, 1981, issued and duly served on Respondent a backpay specification and notice of hearing, alleging the amount of backpay due and notifying Respondent that it should file a timely answer complying with the Board's Rules and Regulations, and Statements of Procedure, Series 8, as amended.

Respondent failed to file an answer to the backpay specification. By letter dated October 16, 1981, counsel for the General Counsel informed Respondent of the requirement to file an answer and of the General Counsel's intention to file a Motion for Summary Judgment if no answer was received by October 23, 1981. On November 23, 1981, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment and for transfer to the Board for decision, and on November 30, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's motion should not be granted. Respondent has not filed an answer, a response to the October 23 letter, a response to the Motion for Summary Judgment, or a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

¹ 256 NLRB 281.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, provides, in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto . . .

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate.

The backpay specification, issued and served on Respondent on or about September 21, 1981, specifically states that Respondent shall, within 15 days from the date of the specification, file with the Regional Director for Region 1 an answer to the specification and that, if the answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and Respondent shall be precluded from introducing any evidence controverting them.

Respondent has failed to respond to the Notice To Show Cause and, therefore, the allegations of the specification stand uncontroverted. As Respondent has not filed an answer to the specification nor offered any explanation for its failure to do so, the allegations of the specification with respect to its liability, in accordance with the Board's Rules set forth above, are deemed to be admitted as true and are so found by the Board, without taking evidence in support of said allegations.

Accordingly, on the basis of the allegations of the backpay specification, the Board finds the facts as set forth therein to be true, grants the General Counsel's Motion for Summary Judgment, and concludes that the backpay due Anthony R. Drenzo is as stated in the computations of the specification and orders that payment be made to him and on his behalf of those amounts.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Bourne's Transportation, Inc., Brockton, Massachu-

setts, its officers, agents, successors, and assigns, shall make whole employee Anthony R. Direnzo by payment to him of backpay in the amount of \$1,972.49, and payment on his behalf of \$317.94 in pension and health and welfare fund payments, plus

interest to be computed in the manner specified in *Florida Steel Corporation*, 231 NLRB 651 (1977), until payment of all moneys due, less tax withholding required by Federal and state laws.